

Application No. 09/867,442
Docket No. 741946-27
Page 7

REMARKS

By this Amendment, claims 1-29 are now pending with claim 28 amended, to correct the noted informality. No new matter is introduced. Reconsideration in view of the following remarks is respectfully requested.

In response to the 35 U.S.C. §112 rejection, claim 28 has been amended to correct the noted informality. The present claims are in compliance with 35 U.S.C. §112 and no further rejection on such basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to contact the undersigned attorney who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

The present independent claims 1 and 8, and the claims dependent therefrom, are patently distinguishable over *Hollenberg* (USP 5,694,335), *Yavatkar et al.* (USP 6,735,702) and *Davis et al.* (USP 5,796,952), alone or in combination, because *Hollenberg*, *Yavatkar et al.* and *Davis et al.* fail to disclose, teach or suggest all of the features recited in the pending claims. For example, contrary to the assertion in the present Office Action, *Hollenberg* fails to disclose teach or suggest **analyzing an unauthorized communications access attempt**, and as correctly admitted by the present Office Action, *Hollenberg* fails to disclose teach or suggest determining a responsive action to the unauthorized communications access attempt, including sending a mechanism for determining a source of an unauthorized communications access attempt in a response to the unauthorized communications access attempt, as recited in independent claims 1, and 8.

As previously recognized by the Examiner, *Hollenberg* is concerned with an **unauthorized physical access attempt**, as compared to **unauthorized communications access attempt** into a monitored communications network, as recited in independent claims 1, and 8. For example, *Hollenberg* discloses “[a]n access sensor 18C that senses the opening of case 22, which, if unauthorized, may presage tampering and loss of network integrity” (col. 10, lines 22-25). *Hollenberg* then discloses that the “sensor 18C provides signals to electronic circuits in enclosure 13 which include programmable microcomputer capability to alter the operation of said node device in order to place the network system in a secure and safe condition” (col. 10, lines 25-29). Accordingly, *Hollenberg* not only fails to disclose teach or suggest sending a mechanism for determining a source of an unauthorized communications access attempt in a response to the unauthorized communications access

W688364.1

Application No. 09/867,442

Docket No. 741946-27

Page 8

attempt, as recited in independent claims 1, and 8, and as admitted by the present Office Action, *Hollenberg* teaches away from such feature, since *Hollenberg* discloses that the "sensor 18C provides signals to electronic circuits in enclosure 13 which include programmable microcomputer capability to alter the operation of said node device in order to place the network system in a secure and safe condition" (col. 10, lines 25-29), thus obviating any need for "sending a mechanism for determining a source of an unauthorized communications access attempt in a response to the unauthorized communications access attempt," as recited in independent claims 1, and 8, as the source (i.e., "the opening of case 22") is already known.

Accordingly, based on such negative teaching in *Hollenberg*, absent improper hindsight reconstructions of Applicants' invention, based on Applicants' disclosure, one of ordinary skill in the art would find no motivation to modify *Hollenberg* to include the noted feature of "sending a mechanism for determining a source of an unauthorized communications access attempt in a response to the unauthorized communications access attempt," as recited in independent claims 1, and 8, even in view of *Yavatkar et al.* and *Davis et al.* Thus, independent claims 1 and 8, and the claims dependent therefrom, are patently distinguishable over *Hollenberg*, *Yavatkar et al.* and *Davis et al.*, alone or in combination.

Dependent claims 2-7, and 9-29 are allowable over *Hollenberg*, *Yavatkar et al.* and *Davis*, alone or in combination, on their on merits, and for at least the reasons advanced with respect to independent claims 1, and 8. For example, dependent claims 17-18 and 23-24 recite employing an identified packet concealed in a response, wherein one or more distributed hierarchical monitoring systems detect passage of the identified packet, and the packet is identified by a flag, and the one or more distributed hierarchical monitoring systems detect passage of the flag. By contrast, contrary to the assertion in the present Office Action, *Hollenberg*, *Yavatkar et al.* and *Davis et al.*, alone or in combination, fail to teach, disclose or suggest such features.

The present amendment is submitted in accordance with the provisions of 37 C.F.R. §1.116, which after Final Rejection permits entry of amendments placing the claims in better form for consideration on appeal. As the present amendment is believed to overcome outstanding rejections under 35 U.S.C. §§ 112 and 103, the present amendment places the

W688364.1

Application No. 09/867,442
Docket No. 741946-27
Page 9

application in better form for consideration on appeal. It is therefore respectfully requested that 37 C.F.R. §1.116 be liberally construed, and that the present amendment be entered.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. If, however, the Examiner deems that any issues remain after considering this response, the Examiner is invited to contact the undersigned attorney to expedite the prosecution and engage in a joint effort to work out a mutually satisfactory solution.

Respectfully submitted,

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